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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 THE UNITED STATES OF
11 AMERICA,

12 Plaintiff,

13 vs.

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15 DAVID MEDNANSKY, MARTINE
16 MEDNANSKY, individually,

17 Defendants.

CASE NO. 10-CV-1307-MMA-BGS

**ORDER DISMISSING
DEFENDANTS' MOTION FOR
RECONSIDERATION UNDER
RULES 60(b)(3) AND (4);**

**DENYING DEFENDANTS'
MOTION FOR
RECONSIDERATION UNDER
RULE 60(b)(6)**

[Doc. No. 77]

18 Presently before the Court is Defendants David Mednansky and Martine
19 Mednansky's Motion for Reconsideration under Federal Rules of Civil Procedure
20 60(b)(3), (4), and (6). [Doc. No. 77.] The Court has previously entertained
21 Defendants' arguments related to Rule 60(b)(4), and on this ground summarily
22 **DISMISSES** this claim. [See Doc. No. 67.] Furthermore, the Court finds that
23 Defendants' 60(b)(3) argument is premised on the same grounds as their 60(b)(4)
24 request, and **DISMISSES** this claim as well.

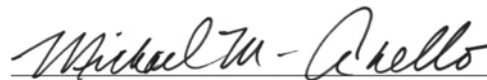
25 Finally, Defendants fail to demonstrate that another "reason . . . justifies
26 relief" under Rule 60(b)(6). Fed. R. Civ. P. 60(b)(6). "Judgments are not often set
27 aside under Rule 60(b)(6). Rather, the Rule is used sparingly as an equitable remedy
28 to prevent manifest injustice and is to be utilized only where extraordinary

1 circumstances prevented a party from taking timely action to prevent or correct an
 2 erroneous judgment.” *Latshaw v. Trainer Wortham & Co., Inc.*, 452 F.3d 1097,
 3 1103 (9th Cir. 2006) (quoting *United States v. Washington*, 394 F.3d 1152, 1157
 4 (9th Cir. 2005)) (internal quotations omitted). “Accordingly, a party who moves for
 5 such relief ‘must demonstrate both injury and circumstances beyond his control that
 6 prevented him from proceeding with . . . the action in a proper fashion.’” *Id.*
 7 (quoting *Community Dental Services v. Tani*, 282 F.3d 1164, 1168 (9th Cir. 2002)).

8 Here, Defendants’ request for reconsideration relies on events that presumably
 9 occurred in 2009 and 2010. [See Civil Case No. 09CV1478-LAB-BGS (case
 10 dismissed August 26, 2010).] Furthermore, Defendants rely on a Supreme Court
 11 case decided March 21, 2012. [See Mot. at 19-21 (citing *Sackett v. EPA*, 132 S. Ct.
 12 1367, 1371 (2012)).] A motion for reconsideration is not the proper mechanism to
 13 raise arguments that could reasonably have been presented earlier in litigation.
 14 *Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003). Defendants fail to explain
 15 why the grounds raised in the present motion could not have been raised in any of
 16 their three previous motions for reconsideration, all filed after the Supreme Court
 17 issued the *Sackett* decision. [See Doc. Nos. 50, 53, 67.] Accordingly, the Court
 18 **DENIES** Defendants’ request for relief under Rule 60(b)(6).

19 **IT IS SO ORDERED.**

20 DATED: April 19, 2013

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22 Hon. Michael M. Anello
 23 United States District Judge
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